IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 12243 of 2007

DATED: 10.8.2007

Between:
Sri Bathula Hari petitioner

And

A.P.S.R.T.C.
Rep by its Vice Chairman & Managing Director
Musheerabad, Hyderabad & another Respondents

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THE HON'BLE MR JUSTICE N.V. RAMANA

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ORAL ORDER:

This writ petition is filed questioning the action of the respondents in issuing show cause notice dated 15.5.2007 proposing to remove the petitioner from service of the corporation, as illegal and arbitrary.

The petitioner is employed in the respondent corporation as Conductor Grade II. While so, on 4.9.2006 a check was conducted, wherein the checking officials found cash and ticket irregularities. Based on the report of the checking officials, the petitioner was issued with charge sheet dated 23.12.2007 and was kept under suspension. The enquiry officer after conducting the enquiry submitted his report dated 29.3.2007 holding that the charge alleged against the petitioner is proved. The petitioner submitted his objections to the enquiry officer's report, and having not satisfied with the same the respondent issued impugned show cause notice dated 15.5.2007. The petitioner alleges that the enquiry was conducted in violation of the principles of natural justice and without considering his objections to the enquiry officer's report the impugned show cause notice is issued and the same is illegal. Hence, the present writ petition.

A counter affidavit is filed on behalf of respondents denying the averments made in the writ petition and stating that the petitioner having accepted an amount of Rs.156/- from the subject passenger

has issued ticket worth Rs.136/- and that the subject passenger in his statement stated that he has paid Rs.156/- to the Conductor but the conductor has issued tickets worth Rs.136/- only and the said statement was attested by the service driver. The charge sheet and suspension orders were sent to the address of the petitioner on 29.6.2006 through registered post to the residential address and since the same were returned unserved, the same were exhibited on the notice board of the depot on 8.10.06 duly taking signatures of the witnesses. Thereafter the enquiry officer was appointed and the said fact was also informed to the petitioner vide registered letter enclosing the suspension order, charge sheet, passenger's statement etc and the same were received by the petitioner under acknowledgement. The enquiry underwent several adjournments and reasonable opportunity was given to the petitioner. That reasonable opportunity was given to the petitioner and he failed to avail the same and after issuing an exparte enquiry letter, the enquiry officer concluded the enquiry and submitted his report on 29.3.2007. The petitioner submitted his objections to the enquiry report and having not satisfied with the same, the impugned show cause notice of removal from service is issued to the petitioner on 15.5.2007 granting 15 days time to submit his explanation. Since the petitioner has not submitted his explanation to the show cause notice till 11.6.2007 removal order dated 12.6.2007 was passed removing the petitioner from service. It is also stated that the petitioner has not availed the alternative remedies available to him and rushed to this Court and the writ petition is not maintainable.

This Court by order dated 14.6.2007 directed the learned standing counsel for respondent corporation to produce the relevant record and to file counter affidavit within two weeks and directed the

respondents not to take any further action in the matter for two weeks.

A reply affidavit is filed by the petitioner stating that on 14.6.2007 at about 11.30 a.m., this Court granted interim order and immediately at about 12.00 noon he has issued a telegram to the Depot Manager informing the same, but the Depot Manager refused to receive the said telegram and the same was returned with endorsement refused by the addressee. It is alleged that the respondents to circumvent the interim orders of this Court, have passed the ante-dated proceedings dated 12.6.2007 removing him from service.

On perusal of the counter, reply and the certified copy of the telegram sent by the petitioner, which was refused by the Depot Manager, this Court by order dated 27.7.2007 directed the second respondent-Depot Manager to appear in-person before this Court on 3.8.2007 along with original record.

On 3.8.2007 when the matter is taken up, it was admitted by the second respondent that the lower staff at the Depot has not received the telegram and tried to justify passing of removal order dated 12.6.2007. However, after advancement of arguments to some extent, the second respondent has agreed to give opportunity to petitioner to submit his explanation to the show cause notice and sought time to pass appropriate orders to withdraw the removal order dated 12.6.2007.

Today when the matter is taken up, learned standing counsel for respondents-corporation produced office order No. 02/95(97)/2006-NRML dated 7.8.2007 whereunder the removal order dated 12.6.2007 was rescinded and petitioner was granted 15 days time to submit his explanation to the show cause notice dated 15.5.2007.

Heard the learned counsel for petitioner and learned Standing Counsel for respondent Corporation. Both counsel agreed for disposal

of the writ petition at admission stage.

The show cause notice proposing removal of the petitioner from service is under challenge in the present writ petition. In view of issuance of proceedings dated 7.8.2007 rescinding the removal order dated 12.6.2007 and permitting the petitioner to submit his explanation within 15 days and in view of the agreed stand taken by both the counsel,

I deem it appropriate to dispose of the writ petition with the following direction;

The petitioner is directed to submit his explanation to the show cause notice dated 1.5.2007 along with documents in support of his claim and on filing such explanation, the respondents are directed to consider the same and pass appropriate orders in accordance with law.

Accordingly, the writ petition is disposed of. No costs.

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N.V.RAMANA,J

DATE: 10.8.2007
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